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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :

v. : CRIMINAL NO. 78-0401

MARY SUE HUBBARD, et al. :

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

CHURCH OF SCIENTOLOGY OF CALIFORNIA :

:

v. : CIVIL ACTION 78-2053

PAULETTE COOPER. :

FILED

FEB 17 1982

JAMES F. DAVEY, Clerk

ORDER

Upon consideration of the Motion for a Protective ORder filed by the Church of Scientology in connection with Church of Scientology of California v. Paulette Cooper, No. CV 78-2053 (C.D. Calif.) and in its capacity as intervenor in United States v. Hubbard, Cr. 78-401 (D.D.C.) and the opposition thereto; the hearing held thereon on January 18, 1982; the Court's Order of January 18, 1982 and the Memorandum Opinion issued this date; the Court of Appeals opinion in United States v. Hubbard, 650 F.2d 293 (D.C. Cir. 1980); and the entire record herein, it is by the Court this 17th day of February, 1982,

ORDERED, that the Motion for a Protective Order be and hereby is DENIED; and it is

FURTHER ORDERED, that the depositions noticed by Paulette Cooper, including the accompanying subpoenaes, may proceed; and that the United States Attorney and/or Federal Bureau of Investigation agent may produce at deposition their copies of the subpoenaed documents under seal of this Court subject to the following conditions:

1. The depositions taken pursuant to Ms. Cooper's subpoenaes shall be placed under seal of the court in which the underlying action is pending;

2. Ms. Cooper may subpoena and use the government's copy of the sealed documents only for the purpose of authenticating her copies of the documents for use in the two cases now pending in the District Court of Massachusetts and the Central District of California in which Ms. Cooper is a party.

Aubrey E. Robinson, Jr.
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	
	:	
	:	Crim. No. 78-401
v.	:	
	:	
MARY SUE HUBBARD, et al.	:	

MOTION OF THE UNITED STATES FOR RECONSIDERATION AND MODIFICATION OF THIS COURT'S OPINION OF FEBRUARY 17, 1982 AND OF ORDER OF SAME DATE CERTIFYING DOCUMENT TO TAX COURT, AND POINTS AND AUTHORITIES IN SUPPORT THEREOF

The United States of America respectfully moves this Court to reconsider and modify certain aspects of its Memorandum Opinion of February 17, 1982 (hereinafter "Mem. Op."), and of its Order of the same date certifying a document to the United States Tax Court. While satisfied with the relief that the Court has granted insofar as the Court has certified document No. 7085 to the Tax Court for it use, we are nevertheless concerned that because of facts, considerations, and a Court of Appeals memorandum and order, all of which this Court may not have been aware, the reasoning and phrasing of this Court's Memorandum Opinion and Orders of February 17 may not reflect the intent of the Court of Appeals and may have consequences neither anticipated nor intended by this Court.

SUMMARY OF ARGUMENT

Unbeknownst to the Court [1] and to the Government, prior to this Court's February 17 ruling, the United States Court of Appeals for the District of Columbia had on January 19, 1982, in a related matter, issued an unpublished Memorandum and Order (Exhibit A hereto) denying the Motion to Recall Mandate filed by

1/ Mem. Op. at 6, note 9.

the Church of Scientology of California in the "re-sealing case," United States v. Hubbard, ___ U.S.App. D.C. ____, 650 F.2d 293 (1980 and 1981). Based upon the reasoning of the Court of Appeals in its denial of the Motion to Recall Mandate, and for other reasons as set forth below, the United States respectfully asks this Court to modify its Memorandum Opinion of February 17, 1982, insofar as it holds that "the original seized documents now in the hands of the government . . . fall within the scope of the sealing order placed on the documents by the Court of Appeals' decision in United States v. Hubbard, [supra]" (Mem. Op. at 5-6), "and have been, under seal" (Mem. Op. at 7, emphasis added). 2/

We respectfuly submit that it is not necessary to impose a seal, nunc pro tunc, on the seized documents in the hands of the Government in order to implement the Court of Appeals' decision in the "re-sealing case" and this Court's concern that the seized documents not be disseminated publicly by the Government. Furthermore, the recent opinion of the Court of Appeals in denying the Motion to Recall Mandate, of which this Court was unaware at the time it issued its ruling, casts additional illumination on the Court of Appeals' intention in its original "re-sealing opinion." It now appears that, despite this Court's very careful attempt in its Memorandum Opinion of February 17 to discern the intent of the Court of Appeals, the Court of Appeals would not have reached the same result. When asked to seal

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2/ Unfortunately, the Order and Memorandum denying the Motion to Recall Mandate were apparently not sent to the United States Attorney's Office or to any of the private litigants who had filed motions seeking leave to intervene. In fact, having heard nothing on their motions for leave to intervene, the private litigants filed oppositions to the Motion to Recall Mandate after the Court of Appeals had already denied the Motion to Recall. The pleadings filed by the Church, the United States and the private litigants in the Court of Appeals with respect to the Motion to Recall are attached as Exhibits B to F to this Motion.

copies of the seized documents in the hands of third parties, the Court of Appeals refused to do so. 3/ Thus, it now appears that the Court of Appeals did not intend to seal all the originals and copies of the seized documents, just the court exhibits.

Moreover, this Court's opinion, as presently phrased, would appear to place a retroactive seal on the documents in the possession of the United States and to require the return to the United States Attorney of all documents previously provided to state and federal law enforcement agencies, federal grand juries, and other federal agencies, for submittal to this Court for a determination as to whether these documents can be provided to the concerned grand juries and agencies. We respectfully submit that this burdensome and, perhaps, impossible task is not required either under a literal reading or in the spirit of the Court of Appeals' decision in its "re-sealing opinion."

Moreover, if this Court is imposing a retroactive seal on the documents in the Government's possession, the Court may be unwittingly subjecting the Government to liability, without notice, for its previous good faith dissemination of the documents over a three year period, from February 1979 to February 1982, to state and federal law enforcement and other federal agencies. These agencies had substantial, legitimate interests in the lawfully seized documents (some of which were originally stolen from those agencies), interests which the Court of Appeals

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3/ In its Motion to Recall Mandate, the Church of Scientology did not ask the Court of Appeals to seal the original seized documents in the joint possession of the United States Attorney and the FBI, but only those in the possession of "third parties," which would apparently have included any party, even state and federal law enforcement agencies and other government entities, who received copies of the documents made from the court exhibits at the suppression hearing. See Motion to Recall Mandate, Exhibit B hereto. This the Court of Appeals refused to do.

clearly recognized in its opinion in United States v. Hubbard, supra, 650 F.2d at 323. By now possibly implying that dissemination of some seized documents to these agencies may have been in violation of a newly imposed sealing order, it appears that, as presently phrased, this Court's Memorandum Opinion will fuel, and perhaps spawn vexatious litigation. 4/

Finally, it is respectfully requested that this Court modify its order certifying the seized document (No. 7085) to the Tax Court for its use by removing the prohibition on the document being made public.

I. SEALING OF THOSE SEIZED DOCUMENTS IN THE POSSESSION OF THE UNITED STATES WAS NOT CONTEMPLATED BY THE COURT OF APPEALS AND IS NOT NECESSARY TO EFFECTUATE THE SPIRIT OR INTENT OF THAT COURT'S DECISION

The United States respectfully submits that sealing of the seized documents in the possession of the United States was not contemplated by the Court of Appeals and is not necessary to effectuate the spirit or intent of that Court's decision in United States v. Hubbard, supra.

As this Court noted in its February 17 opinion,

> The Government correctly notes that the Court of Appeals opinion nowhere specifically includes within the scope of the sealing order the copies of the documents in the hands of the government and third parties.

Mem. Op. at 6. This Court went on to say that the failure of the Court of Appeals to specifically include these two categories

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4/ Already among the claims contained in the complaint in Church of Scientology of California v. Linberg, et al., C.D. Cal. No. CV-77-2654 (KN), the civil suit against the FBI, the Department of Justice, and individual agents challenging the California searches and seizures, is the general claim that seized documents were improperly disseminated. This suit is now going forward, the Government's motion to dismiss having been denied.

of documents within its opinion was "not without some significance." Id. Nevertheless, this Court concluded that

> [c]areful consideration of the July 24 opinion and of the practical effect of a contrary holding convinces this Court that, when the Court of Appeals directed this Court to issue an order sealing the documents, the Court did not contemplate that copies of the documents in the possession of the Government and third parties would remain unsealed.

Id.

In reaching this conclusion, the Court indicated it was influenced by three factors. First of all, the Court determined that it was "inconceivable that the Court of Appeals contemplated that the documents in the possession of the Government were governed solely by an agreement to which the Church was not a party." Mem. Op. at 7. Secondly, the Court concluded that the fact that the Court of Appeals referred to the District Court's ability to provide copies of the seized documents to law enforcement authorities was an indication that the Court of Appeals did not envision that the Government could also provide copies of the seized documents to law enforcement and other federal authorities. Id. Finally, this Court determined that it would be "anomalous" for the Court of Appeals to leave documents in the hands of the Government and third parties unsealed if it were truly interested in protecting against public dissemination of the documents. Id. We respectfully submit that none of these factors requires sealing of the documents in the Government's possession in order to carry out the intent of the Court of Appeals.

A. The Disposition Agreement Provides For Public Dissemination of the Documents With Judicial Oversight, Just as the Court of Appeals Re-Sealing Opinion Does

First of all, Judge Richey's October 8, 1979, opinion concerning the dispositon agreement between the Government and the

first nine Scientology defendants does not restrict any property and privacy interests of the Church of Scientology in the seized documents, but rather enhances those rights, providing the Church with precisely the same remedy available to it under the Court of Appeals opinion. Under the terms of the agreement which Judge Richey found to exist, the United States cannot disseminate any of the seized documents in its possession [5] publicly except pursuant to lawful subpoena and only after ten days notice to the Church of Scientology. This notice provision quite obviously runs to the express benefit of the Church of Scientology and provides the Church with the identical opportunity to challenge any such public dissemination that is provided by the Court of Appeals in United States v. Hubbard, supra, 650 F.2d at 322-325.[6] Once notified by the Government that a subpoena for the documents issued on behalf of an individual member of the public has been received (a notification which was provided here), the Church is free to go into Court, just as it has done here and, by moving for a protective order, invoke a procedure identical to that set forth in United States v. Hubbard, supra, for determining whether the United States should provide the documents in response to the subpoena. There has been no showing or even a claim that the

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5/ The United States has only about half of the seized documents in its possesson. The other half, of which the United States retained no copies, was returned to the Church of Scientology in August 1978.

6/ Continuously throughout its opinion the Court of Appeals emphasized that it was concerned only with "public access to" or "public dissemination of" the seized documents placed in evidence. Those words appear many times on just about every page of the court's lengthy opinion. Moreover, as we noted in our Reply to the Memorandum of the Church of Scientology in Opposition, filed February 12, 1982, the Court of Appeals, both at the beginning and at the conclusion of its opinion, emphasized that it was resolving only the question of "the public right of access" to the seized materials placed in evidence to demonstrate the unlawfulness of the search. United States v. Hubbard, supra, 650 F.2d at 295, 325 n. 121.

United States has violated the October 8, 1979, disposition agreement by providing non-public seized documents to members of the public without a subpoena [6A/] or without notifying the Church of Scientology and affording them the opportunity, excercised here for the first time, of securing judicial oversight of the release of any seized documents to members of the public.

Thus, we submit, since the Government had already been found to have agreed not to publicly disseminate the documents without notice to the Church, and since the public dissemination of the documents in court files was the only concern of the Court of Appeals, it is not at all "inconceivable" that the Court of Appeals meant to leave the documents in the possession of the Government unsealed and governed only by the agreement of the United States not to disseminate the documents publicly except pursuant to lawful subpoena and after ten days notice to the Church. Furthermore, because of the Government's agreement regarding the procedure for dissemination of the documents to the public, this Court's fear that the "Church's privacy and property rights are just as endangered by dissemination of copies possessed by the government . . . as by dissemination of the single set of documents located within the Court files," Mem. Op. at 7, is

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6A/ Indeed, the United States has, in one case, refused a Freedom of Information Act request from a former Government attorney for Scientology documents specifically ordering an operation to destroy his reputation and smear him. Under the disposition agreement, it would appear that a Freedom of Information Act request is not a "lawful subpoena."

unwarranted. 7/

B. Dissemination of Seized Documents by the Government to State and Federal Law Enforcement and Other Federal Agencies, Without Judicial Oversight, Was Not Prohibited but Anticipated by the Court of Appeals

With respect to the other aspect of the "disposition agreement" concerning the United States' statement that it was not giving up its right, indeed, its duty under the law, to disseminate certain seized documents to federal and state law enforcement agencies and to other federal agencies, that provision did not and does not in any way restrict any legitimate right possessed by the Church of Scientology. The Court of Appeals indicated that such dissemination to state and federal law enforcement agencies is not public dissemination, but is precisely the type of disseminaton which the law permits with seized materials and which the Court of Appeals envisioned would occur without any adversarial proceedings. United States v. Hubbard, supra, 650 F.2d at 323. These agencies, which were in many cases victimized

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7/ Of course, with respect to many of the seized documents, the Church simply has no property or privacy interest. These documents, the fruits of crime, stolen from the federal government, from state governments, and from private organizations and individuals, two sets of copies of which were provided to the Church after the searches and seizures, are ironically being held by the Church in derogation of the property and privacy interests of those entities and individuals. The same would appear to be true with respect to that class of internal Church documents which discuss the fruits of crime (e.g., the "Mike Memos" summarizing documents stolen from the Government, private organizations, law firms, etc.)

It may be that the only real "anomaly" here is that the Church of Scientology, which in civil lawsuits in other courts refuses to acknowledge that the documents are its property and were seized from its premises, has the temerity to, at the same time, invoke the solicitude of this Court in preserving what it asserts to be its property and privacy interests in the very same documents, many of which were stolen by Church members from government agencies and private organizations and individuals.

by the crimes revealed in the documents, have the obligations to investigate and, if warranted, prosecute the crimes revealed in the documents, and especially to remedy security breaches revealed in the documents, which in some cases included access to highly classified and other intelligence documents. See note 18, infra.

This Court, however, appears to read into the Court of Appeals decision an intention to excercise judicial oversight of (and perhaps even an adversarial procedure concerning) such government dissemination of the seized documents. This Court finds authority for the need for such judicial oversight in a comment by the Court of Appeals, made in the course of its discussion regarding public, not law enforcement, access to seized documents evidencing other crimes committed by the defendants or other uncharged persons. The Court of Appeals stated:

> A third possible reason [for permitting public access to the seized documents], and the most troublesome as a matter of policy, is that the documents were evidence of crimes -- whether additional evidence of the crimes charged, or evidence of other crimes committed by the defendants then before the Court, or even evidence of crimes committed by persons not charged in the instant proceedings or then before the court. Of course, copies of the documents can be made available by the Court to appropriate law enforcement authorities; no one disputes that here. But public access is more bothersome. . . .

Id. at 323 (emphasis added). This Court appears to find in the suggestion that copies of the seized documents could be provided to law enforcement authorities "by the Court" an intention to seal the documents in the Government's possession and prohibit the Government from so disseminating the documents without judicial oversight. We respectfully submit that this is neither what the Court of Appeals said nor what it intended.

First of all, it appears that the Court of Appeals was simply venturing an opinion on a procedure which might be followed on a matter that was not even in issue. Earlier in its opin-

ion, [8] the Court of Appeals had painfully traced the procedure by which a copy of the seized documents, the only complete set not in the hands of the Church, [9] had been placed in evidence for Judge Richey's consideration on the motion to suppress. The Court of Appeals was well aware that the United States had returned about half of the seized documents to the Church, retaining no copy of these documents. E.g., United States v. Hubbard, supra, 650 F.2d at 297 n. 6. [10] Thus, it is not at all surprising that the Court of Appeals, knowing that the Government did not have copies of at least half the seized documents, and possibly laboring under the impression that the United States had voluntarily surrendered the rest of the seized documents for Judge

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8/ United States v. Hubbard, supra, 650 F.2d at 296-98 n. 6.

9/ United States v. Hubbard, supra, 650 F.2d at 298 n. 8. The word "surety" in the last quote of Mr. Banoun is a transcribing error. It should read "Church."

10/ Furthermore, the Court may have been under the impression that the United States had surrendered the "non-returned" documents in its possession to the Clerk of the Court for consideration by Judge Richey on the Motion to Suppress. Actually, the copy of the "non-returned" documents that was put in evidence at the suppression hearing came not from the Government but from the one complete sealed copy of all the documents, both "returned" and "non-returned," which, pursuant to the agreement of the Church and the United States prior to the final ruling of Judge Lucas, had been sealed and placed in a safe in the California district court for subsequent use in the civil suit challenging the search and related proceedings.

The confusion of the Court of Appeals as to how the "non-returned" documents got into the possession of the District Court for the District of Columbia and how they came to be sealed in the first place is quite apparent. The Court notes with some surprise: "In fact what was transferred from the [California] district court [to the District of Columbia for consideration by Judge Richey] comprised not only the returned documents but all documents seized." United States v. Hubbard, supra, 650 F.2d at 297 n. 6. Again, the Court says, "Assuming those documents not required to be surrendered were in fact given over to the California district court clerk ...." Id. It is clear that the Court of Appeals was puzzled as to how the "non-returned" documents had even gotten into evidence under seal.

Richey's use in evidence in considering the Motion to Suppress, thought that if copies of the seized documents were to be provided to law enforcement authorities it might have to be done by the Court simply because the documents in evidence were the only documents available to the Government. 11/ Thus, we submit, the Court of Appeals' reference to this Court's ability to provide copies of the seized documents to law enforcement authorities was not meant to be a prohibition on the Government's ability to do likewise, but was simply an alternative method of assuring that law enforcement authorities had access to important evidence of substantial and significant criminal activities within their jurisdictions.

In any event, the Court of Appeals clearly indicated that in re-sealing the court's copy of the seized documents it was not concerned with the Government's use of the seized documents but with the Court's use.

> Moreover, we read the [various sealing] orders [imposed by the Central District of California and the Ninth Circuit] to address the government's use of the documents and not the Court's; the propriety of a court's unsealing order once the materials were properly received in a "resulting criminal proceeding" must thus be determined independently.

650 F.2d at 298 n. 6 (emphasis added).

C. The Court of Appeals' Denial of the Motion to Recall Mandate Is Further Indication of Its Lack of Intention to Seal the Documents in the Possession of the Government

Finally, the reasoning of the Court of Appeals in its recent opinion denying the Motion to Recall Mandate indicates

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11/ In fact, the Government has received requests from state and other federal law enforcement authorities for access to "returned" documents no longer in the Government's possession which, from the inventory of seized documents, appear to be fruits of, or relevant to, crimes committed within their jurisdictions. These documents could only be obtained from the Court.

that this Court's opinion, that "it would be anomalous for the Court of Appeals . . . to seal the documents in the court files but leave other copies of the documents unaffected" (Mem. Op. at 7), is apparently not shared by the Court of Appeals, especially now that the Court of Appeals has upheld the searches and seizures. 12/ This Court linked sealing of the documents in the hands of third parties with sealing of the documents in the hands of the Government and concluded that "when the Court of Appeals directed this Court to issue an order sealing the documents, the Court did not contemplate that copies of the documents in the possession of the government and third parties would remain unsealed." Mem. Op. at 6 (emphasis added). Now, however, the Court of Appeals, in its most recent statement, of which neither this Court nor the Government was aware, has itself indicated that it did contemplate that copies of the documents in the possession of third parties would remain unsealed.

When asked by the Church to recall its mandate in the "resealing case" and "to order the return of all copies made while the documents were improperly unsealed, to enjoin any nonjudicially authorized use of those copies and to order the documents sealed nunc pro tunc to the time of their improper [un]sealing," memorandum accompanying Order of January 19, 1982, in United States v. Hubbard, supra, the Court of Appeals refused to seal the docu-

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12/ United States v. Heldt, ___ U.S.App.D.C. ___, ___ F.2d ___ (1981), slip opinion at 30-63. Although two of the first nine defendants have filed petitions for certiorari, insofar as those petitions challenge the searches and seizures as "general", they are unlikely to be granted. Neither of the petitioning defendants, Mary Sue Hubbard and Duke Snider, has even a tenuous claim of standing to challenge the search of the Cedars complex, the location from which 98% of the documents were seized. United States v. Hubbard, 493 F.Supp. 209, 215 (D.D.C. 1979), affd. sub nom United States v. Heldt, supra, slip opinion at 41-42 n. 28. See also United States v. Kember and Budlong, D.C. Cir. Nos. 80-2563 and 80-2564, slip op. at 3, 16 (decided March 5, 1982).

ments in the hands of third parties. The Court was fully aware that "Scientology fears that without additional protection from this Court, private persons who have obtained copies of the documents while they were improperly unsealed will be free to use them as they please without judicial oversight. . . ." Id. Nevertheless, the Court of Appeals determined that "[t]his is not an exceptional case warranting the exercise of our power." Id. The Court noted that insofar as the seized documents were being used in litigation in other courts, "the various courts overseeing civil actions in which the documents are or may be involved are best able to oversee use of the copies made while the documents were improperly sealed [sic] as well as to supervise discovery." Id. Furthermore, the Court of Appeals absolutely refused to seal the copies of the seized documents in the hands of third parties not involved in litigation with Scientology:

> [T]he general prohibition Scientology seeks here...would apply to unidentified nonlitigants who acted in good faith in obtaining the documents and whose actions would now be governed by an order they had no meaningful opportunity to contest. Any such general prohibition would not only extend the Court's mandate to unknowable limits but would realistically be unenforceable as well.

Id. 13/ Indeed, a severe problem would otherwise have arisen, for example in the case of newspapers which had acquired copies

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13/ Based upon this statement by the Court of Appeals, we respectfully submit that this Court should also modify those portions of its opinion which appear to hold that copies of the documents in the hands of third parties made from the Court's files during the period of the unsealing are also under seal and may not be disseminated. See, e.g., In Re: Halkin, 194 U.S.App.D.C. ___, 598 F.2d 176 (1979). We are advised that in fact several state law enforcement agencies are now in possession of such copies of the documents, having been provided them by others who copied the Court's files. See affidavit of Thomas G. Hoffman, Esquire, attached hereto as Exhibit G, at paragraphs 4 and 5.

of the documents from this Court, had already published them, and may, in the future, publish articles based on them. To prohibit the latter would create a "prior restraint" situation. E.g., New York Times v. Sullivan, 403 U.S. 713 (1971).

Thus, we submit, it is not at all inconceivable that, for the reasons set forth in this motion, the Court of Appeals also contemplated that the documents in the hands of the Government would remain unsealed. Just as with copies of the seized documents used by third parties in litigation, the seized documents in the hands of the Government, as noted above, are subject to judicial oversight prior to public dissemination, according to the notice provisions of the October 8, 1979 court ruling finding a disposition agreement. Moreover, just as the Court of Appeals found with respect to imposing a nunc pro tunc sealing order on seized documents in the hands of third parties, to impose a nunc pro tunc sealing order on the seized documents in the possession of the Government, retroactively prohibiting dissemination of the seized documents by the Government to state and federal law enforcement and other agencies, is an inherently unfair penalty for actions taken in good faith in reliance upon a Court of Appeals decision which by its own terms, as this Court concedes, does not prohibit such dissemination. We respectfully submit that just as the Court of Appeals would not impose such an unfair burden on third parties, it would not impose it on the Government.

II. RETROACTIVE IMPOSITION (NUNC PRO TUNC) OF A SEALING ORDER WILL HAMPER LAW ENFORCEMENT, REQUIRE AN UNNECESSARY AND BURDENSOME RETRIEVAL PROCESS, AND RESULT IN VEXATIOUS LITIGATION

On February 22, 1979, the Court of Appeals for the Ninth Circuit dismissed Scientology's appeal from Judge Lucas' denial of Scientology's motion for return of property thus lifting all

previous court-imposed restrictions on the Government's use and dissemination of the documents. 14/ Church of Scientology of California v. United States, 591 F.2d 533 (9th Cir. 1979), cert. denied, 444 U.S. 1043 (1980). See United States v. Hubbard, supra, 650 F.2d at 297-98 n.6. Thus, during the three year period (February 22, 1979 to February 17, 1982) immediately preceding this Court's Memorandum Opinion, the only court-imposed restriction on dissemination of the documents of which the United States was aware was the October 8, 1979 restriction imposed by Judge Richey which prohibits public dissemination except pursuant to lawful subpoena, with ten days notice to the Church of Scientology. We respectfully submit that the belief that this was the only restriction on Government dissemination of the seized documents was not only in accord with the Court of Appeals opinion in the "re-sealing" case, but was an entirely reasonable and good faith belief which should not be penalized by a retroactive sealing of the documents.

It would appear that even after the seized documents in evidence at the suppression hearing were sealed on July 20, 1979, and even after the July 24, 1980 opinion of the Court of Appeals re-sealing those documents, all parties, including the Court, acted as though the seized documents in the possession of the Government were not under seal. Thus, for example, throughout the trial of Jane Kember and Morris Budlong in October and

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14/ Prior to February 22, 1979, there were two other periods of time during which there was no court-imposed restriction on dissemination of the documents by the United States: 1) for one month from July 8, 1977 (the day of the seizure) until August 8, 1977 (the day Judge Lucas applied collateral estoppel effect to Judge Bryant's ruling of July 27, 1977 that the search warrant was unconstitutional); and 2) for four months from July 5, 1978 (the day Judge Lucas denied the motion for return of property, removing all previous restrictions on dissemination of the documents) until October 30, 1978 (the day the Ninth Circuit imposed certain restrictions on dissemination of documents pending appeal).

November 1980, the United States was free to introduce seized documents in evidence without any "unsealing." Moreover, the United States frequently attached to pleadings whatever documents it thought appropriate, with no objection or requirement that the documents be "sealed." 15/

The United States has at all times abided by the October 8, 1979 court-imposed restriction on public dissemination of the seized documents to the press and private individuals, and it has not been suggested otherwise. However, at various times since February 22, 1979, when all prior sealing orders on the documents were removed, and during the two brief periods prior to February 22, 1979, when there was no seal on the documents (see note 14, supra), the United States has provided copies of the seized documents to various state and federal law enforcement and other federal agencies. While it would be difficult and perhaps impossible to reconstruct exactly on what dates within the three year period of February 1979 - February 1982 seized documents were so provided, it is safe to assume that such dissemination occurred both before and after the Court of Appeals opinion of July 24, 1980, reimposing the seal on the seized documents marked as court exhibits, and both before and after July 20, 1979, the date on which a copy of the seized documents was

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15/ We are indeed startled and dismayed at the suggestion that now, by attaching to a pleading in the same criminal case one seized document, the attorneys for the United States are deemed "irresponsible." Mem. Op. at 3, note 7. Clearly, this document, which is simply other evidence of the crimes of which the defendants were convicted, could have been attached to our recently filed Opposition to Motions to Reduce Sentences with no such suggestion of misconduct. E.g., United States v. Hubbard, supra, 650 F.2d at 323 and n. 115. Moreover, as this Court found, the document "does not contain sensitive, personal information about third parties; it does no more than detail efforts by the Church to infiltrate the IRS," Mem. Op. at 10, a fact which was set out on the public record before this Court during the four week trial of Jane Kember and Morris Budlong.

originally placed in evidence and sealed. 16/ In fact, copies of some documents were provided by the United States to law enforcement agencies at their request as a result of these agencies learning about crimes in their jurisdictions, either from newspaper accounts of the documents in the court files written during the nine months the court files were open to the public, or from members of the public who had themselves copied the court files.

As this Court is aware, and as the Court of Appeals has indicated in its various opinions, the seized documents contain evidence of burglaries of, and thefts from, just about every federal agency, many state agencies, and numerous law firms, associations and private organizations. Moreover, the documents contain evidence of serious crimes against numerous individuals. The Court of Appeals has held that such incriminating documentary evidence of "other crimes," seized inadvertently during the execution of the search warrant, is properly seized. United States v. Heldt, supra, slip op. at 56-60. Moreover, it is apparent that the Court of Appeals anticipated that at least some of these documents would be provided to other law enforcement authorities for appropriate action. Indeed, the Court of Appeals went even further and suggested that if the Government did not take action on the crimes revealed in the documents, it might be necessary to release the documents to the public "to

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16/ It is unclear to us as of what date this Court has found that the documents in the Government's possession have been or should have been sealed: July 24, 1980, the date on which the Court of Appeals re-imposed the seal on the Court's copy of the seized documents which Judge Richey had lifted on October 25, 1979; or July 20, 1979, the date on which the copy of the seized documents was moved into evidence and originally sealed by Judge Richey. In United States v. Hubbard, supra, the Court of Appeals found that with the exception of a limited number of documents used at the hearing, the court's exhibit copy of the documents should have been continuously sealed since July 20, 1979. 650 F.2d at 298 n. 6.

permit the public to take the steps necessary to ensure prosecution." United States v. Hubbard, supra, 650 F.2d at 323.

Thus, over the last three years, the United States Attorney's Office for the District of Columbia has disseminated copies of the seized documents, most of which have not been used in evidence at the trials and were not attached to Court pleadings, to at least the following law enforcement agencies:

> United States Department of Justice
> United States Attorney's Office for the Southern District of New York
> United States Attorney's Office for the Central District of Florida
> Pinellas County (Florida) State District Attorney's Office
> United States Internal Revenue Service [17/]

Additionally, after Judge Richey removed the seal from the Court's copy of the documents, seized documents in the Government's possession which were originally stolen from the United States were made available for review and a few disseminated to the National Security Agency, in order that that agency could take steps to declassify classified documents seized from the Church of Scientology and then on public display. Other stolen government documents and documents evidencing breaches of security at government agencies may also have been disseminated to numerous federal agencies during the past three years. Such dissemination was necessary both for investigation and preparation for trial

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17/ Moreover, as indicated at note 13, supra, several other law enforcement agencies have apparently obtained copies of the seized documents from private individuals who copied them from Court files during the nine month period of the "unsealing." Some agnencies, such as the Internal Revenue Service and the Pinellas County (Florida) State District Attorney's Office, obtained copies of the seized documents from the United States after identifying the documents in which they were interested by perusing the Court exhibit copy, not the Government's originals or copies during the nine month unsealing.

of the criminal cases and to remedy breaches of security revealed in the documents. 18/

As presently phrased, this Court's finding that the seized documents in the Government's possession not only are, but "have been" under seal (Mem. Op. at 7), and this Court's suggestion that the documents can only be disseminated by the Court, id., might be construed to require the return to the United States Attorney for the District of Columbia of all seized documents disseminated to these agencies since at least July 24, 1980, if not July 20, 1979, for an evaluation by this Court as to whether the documents can be provided to those agencies. We submit that such a procedure, in addition to not being required or anticipated by the Court of Appeals decision in the "re-sealing case," would impose a monumental and burdensome, if not impossible, task on the Government, would interfere with ongoing law enforcement efforts and Grand Jury investigations, and would unnecessarily burden judicial resources. For these reasons, we respectfully submit that the court should not impose any seal, much less a seal nunc pro tunc, on the seized documents in the Government's possession.

In the event the Court finds that although not previously under seal there is now reason to place the seized documents in the Government's possession under seal, the United States requests that the Court issue an order stating that such a sealing is prospective only, effects only further dissemination of documents by the United States Attorney for the District of Columbia, and does not apply to use of the documents in connec-

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18/ Thus, for example, the Scientologists had placed an operative with the Drug Enforcement Administration for the purpose of stealing government documents. This Scientology operative had obtained a "Top Secret" clearance and worked in the vault where classified CIA and other intelligence documents were stored. Among the seized documents were classified documents stolen by her from that vault.

tion with criminal court proceedings. Moreover, the United States requests that such an order clearly indicate that it does not apply to use of the documents in connection with the civil suit in the Central District of California, Church of Scientology of California v. Linberg, et. al., supra note 4, which challenges the seizure of the documents.[19]

If the Court is unpersuaded by our argument, we respectfully request that the Court indicate whether it is directing the United States Attorney to retrieve from the various agencies all documents provided to them during the period of time which the Court finds the documents were under seal. We also request that, in that event, the Court clarify precisely when the seized documents in the Government's possession are deemed to have come under seal, i.e., July 20, 1979, July 24, 1980, or some other date.

III. THERE IS NO NEED TO MAINTAIN A SEAL ON THE DOCUMENT PROVIDED TO THE TAX COURT

As this Court noted in its Memorandum Opinion, the seized document which the Court certified to the Tax Court for its use, finding that the IRS had "a legitimate need" for the document, "does not contain sensitive, personal information about third parties; it does no more than detail efforts by the Church to infiltrate the IRS" (Mem. Op. at 10), one of the very crimes of which some of the defendants were convicted. Indeed, this Court found that the "Church raises no particularized interests in the document that would preclude disclosure, and this Court's

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19/ This is particularly important in light of the fact that the set of documents now sealed in the Court's custody was originally placed in the custody of the Clerk of the District Court in Los Angeles in August 1978 by joint agreement of the United States and the Church itself in order that the parties would have access to a complete set of the documents for use in connection with the civil suit, supra note 4, pending since July 1977.

review of the document reveals none." Id. Moreover, there is a strong public policy in favor of full disclosure of evidence upon which a court relies in rendering its decisions. 20/ E.g. Nixon v. Warner Communications, Inc., 435 U.S. 589 (1977); United States v. Hubbard, supra, 650 F.2d at 317-318 & n. 96. Accordingly, we submit, there is absolutely no reason to require that "upon its introduction into evidence in that case, the document be placed under seal in the United States Tax Court." Order of February 17, 1982. Therefore, we request that this Court modify its Order of February 17, 1982 by deleting the provision that the document be placed under seal in the Tax Court.

CONCLUSION

For the reasons stated above, the United States respectfully requests that this Court modify its Memorandum Opinion and Order of February 17, 1982, as outlined above. In the alternative, the United States requests that this Court indicate the date on which the seized documents in the possession of the United States came under seal, and whether it is directing the United States Attorney to retrieve all copies of the seized documents disseminated after that date, for presentation to this Court for its determination as to whether the documents may be provided by the Court to the agencies concerned.

The United States requests an opportunity to present oral argument on this motion.

20/ The proceedings in the Tax Court concerning this document are now being held in secret. Judge Sterrett has ordered that the parties file sealed briefs on the relevance to the matter before the Tax Court of document no. 7085.

Respectfully submitted,

Stanley S. Harris jh

STANLEY S. HARRIS
United States Attorney

Raymond Banoun jh

RAYMOND BANOUN
Assistant United States Attorney

Judith Hetherton

JUDITH HETHERTON
Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion for Reconsideration and Modification has been mailed to the following on the 12th day of March 1982:

1. The Honorable Samuel B. Sterrett
   United States Tax Court
   400 - Second Street, N.W.
   Washington, D.C. 20217

2. Attorney for the Commissioner of
   Internal Revenue:

   Martin D. Cohen, Esquire
   Office of District Counsel
   Internal Revenue Service
   P.O. Box 2031 - Main Post Office
   Los Angeles, California 90053

3. Attorney for the Church of Scientology
   of California in the United States Tax Court:

   Robert B. Harris, Esquire
   c/o GLA
   1306 North Berendo Street
   Los Angeles, California 90027

4. Attorneys for the Church of Scientology of California for purposes of this Motion and for defendants Gregory Willardson and Richard Weigand:

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5. Attorney for defendant Mary Sue Hubbard, and for the Church of Scientology of California:

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7. Attorney for certain limited purposes for defendant Mary Sue Hubbard:

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9. Attorney for defendants Cindy Raymond and Mitchell Hermann:

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10. Attorney for defendant Gerald Bennett Wolfe:

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12. Attorney for plaintiff Paulette Cooper in D. Mass. Civil No. 81-681-MC:

Thomas G. Hoffman, Esquire
12 Union Wha f
Boston, Massachusetts 02109

13. Attorney for defendant Paulette Cooper in C.D. Cal. No. CV-78-2053:

Bruce Bunche, Esquire
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Boston, Massachuseets 02116

15. Attorney for plaintiff Church of Scientology of California in C.D. Cal. No. CV-78-2053:

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Taylor, Roth & Hunt
617 South Olive Street
Suite 510
Los Angeles, California 90014

Judith Hetherton
JUDITH HETHERTON
Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :

v. : CRIMINAL NO. 78-401

MARY SUE HUBBARD, et al. :

ORDER

Upon consideration of the Motions for Modification and Clarification of this Court's February 17, 1982 Order; the Motion to Intervene filed by Times Publishing Company; the Church's Motion for a Protective Order; the oppositions thereto; the Memorandum Opinion issued this date; and the entire record herein, it is by the Court this 10th day of June, 1982,

ORDERED, that this Court's Memorandum Opinion and accompanying Orders issued in the above-captioned case on February 17, 1982 be and hereby are VACATED; and it is

FURTHER ORDERED, that the Motion to Intervene be and hereby is DENIED; and it is

FURTHER ORDERED, that the Motions for Modification of the February 17, 1982 Order be and hereby are GRANTED, in accordance with the Memorandum Opinion filed this date; and it is

FURTHER ORDERED, that the Church's Motion for a Protective Order be and hereby is DENIED; and it is

FURTHER ORDERED, that the Government's Motion for an Order Certifying a Copy of Document "FX" to the United States Tax Court be and hereby is GRANTED.

Aubrey E. Robinson, Jr.
United States District Judge

United States District Court
for the District of Columbia
A TRUE COPY

JAMES F. DAVEY, CLERK

By _____
Deputy Clerk

Sect's Missing Founder Leaves Le

By Jay Mathews
Washington Post Staff Writer

HEMET, Calif.—Three years ago, somewhere near this dusty little town of watermelon fields and senior citizen trailer parks, a pudgy, prolific science fiction writer named L. Ron Hubbard climbed into a black van and reportedly disappeared from sight.

Nobody in Hemet, 80 miles east of Los Angeles, or anywhere else might have cared about the fate of a 71-year-old eccentric with a lust for privacy, except that Hubbard was the founder of one of the word's wealthiest and most controversial new religions.

A brilliant organizer, he had turned a talent for amateur psychotherapy into the Church of Scientology, a $300 million, 2 million-member ideological and administrative colossus.

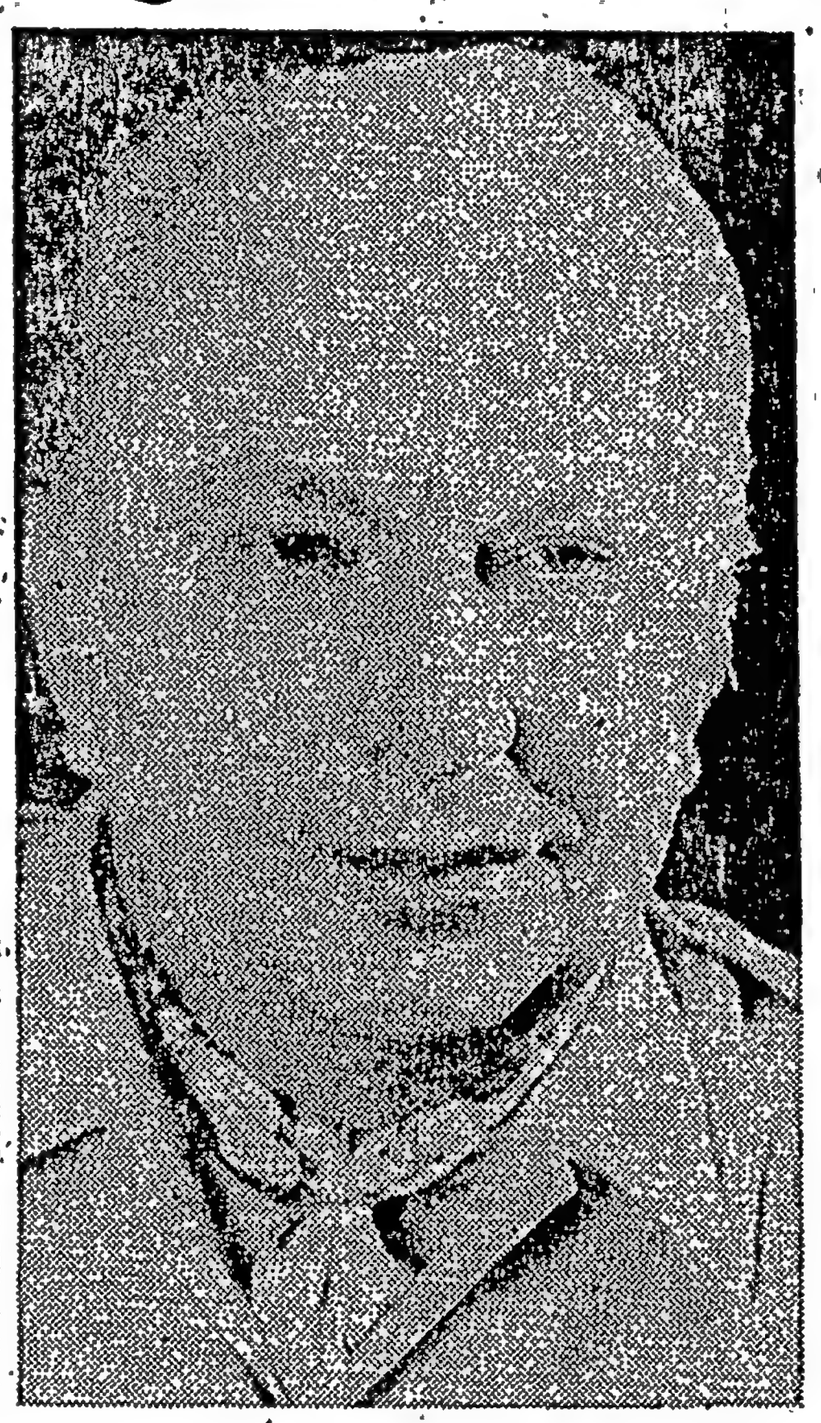
Since Hubbard's alleged disappearance, his church has been riddled with high-level defections and lawsuits. His wife and several top church officials were imprisoned on various charges stemming from 1977 raids of the church's Washington and Los Angeles offices, including conspiracy to obstruct justice or to bug and burglarize the Internal Revenue Service and the Justice Department.

And now a comic-opera legal fight has ensued to prove or disprove his existence through tape recordings, fingerprinted letters and special inks.

Dead or alive, Hubbard's reluctance to deal directly with the outside world still influences somewhat his church and its widespread properties. The church's Golden Era Studios, a resort-like film-making complex at the foot of the San Jacinto Mountains six miles north of here, is surrounded by black metal fences with card-slot locks at each entrance. A recent unannounced visitor was photographed by security men and gently encouraged to move on.

Church officials say they have not seen nor spoken to Hubbard for years but are confident he is alive and well. A four-page letter in a nearly illegible hand, but stamped with fingerprints to prove it was Hubbard's work, recently reached his lawyers in a Federal Express envelope with no return address.

Denver's Rocky Mountain News recently reported that Hubbard had given it an interview, ending 15 years of refusing to speak to the press, but the interview consisted of written answers to questions submitted through Hubbard's lawyers. His attorneys say they must keep confidential whether they even know where he is.



1974 Photo

L. RON HUBBARD
... letter claims he's writing "under the trees"

Vaughn Young, a writer and Scientology Church member who is completing a biography of Hubbard, said his subject has enjoyed long periods of solitude for most of his life. "Even in college, his professors had trouble finding him," Young said. He said there is little or no connection between this habit and the recent troubles of the church.

If the mystery of L. Ron Hubbard is ever solved, it may happen not far from here, in the Riverside County Courthouse where Hubbard's estranged eldest son has asked to be appointed trustee of his father's estate on the grounds that Hubbard is dead or missing. Court papers do not place a value on the estate, but one former Hubbard associate said it is worth at least $100 million.

With less than filial kindness, Ronald E. DeWolf, 48, who changed his name from L. Ron Hubbard Jr. in 1972, alleged in court papers that his father "has lived a life characterized by severe mental illness and physical disease, consistent failure, and the use of false and fraudulent, oftentimes criminal means, to cover up these failures and to acquire wealth, fame and power in order to destroy his perceived 'enemies.' "

Barrett S. Litt, a Los Angeles attorney, called the allegations untrue and said the judge in the case had struck them from the record as "scandalous and irrelevant." Litt said he is representing Hubbard's third wife, Mary Sue, now in federal prison after being convicted of obstruction of justice, in her effort to have DeWolf's petition rejected.

The letter that Hubbard's attorneys recently received ignored most of DeWolf's charges.

"Ron DeWolf was a war baby," said the letter. "I was never there. His mother was an alcoholic and deserted me at war's end when the allocation from the govt. ceased and I was in the hospital at war's end, the usual wounded veteran's story. She ran off with the children and another man. It's too bad I never had the opportunity to raise him during his formative years. Had I been able to do so he might have turned out differently."

The letter also said that Hubbard was well, that his estate and business affairs were being competently handled and that his son "is not in a position to know about me or the church or my activities." (DeWolf left the church in 1959 and hasn't seen his father since then. He manages an apartment building in Carson City, Nev.)

Four recognized experts have submitted court declarations verifying the handwriting and fingerprints as Hubbard's. But Los Angeles attorney Wilkie Cheong, representing DeWolf, called it just "a document with ink and fingerprints. Legally it has no value." He also is attempting to determine the validity of a tape recording of Hubbard's voice which has been submitted as further proof of Hubbard's existence. To dismiss the action, Cheong said, Hubbard should appear in court, if he can.

Hubbard's attorneys, Sherman and Stephen Lenske, called the letter "an important piece of evidence." Sherman Lenske said experts told him they could determine if prints came from a dead man because a body decomposes rapidly. One of the experts who validated Hubbard's letter, retired U.S. Treasury fingerprint and document expert Howard C. Doulder, said he probably could not tell the difference if fingerprints were from a carefully preserved body, but added that he had been shown "boxes and boxes" of recent manuscripts in Hubbard's handwriting and was certain he was alive.

So where is Hubbard? Doulder said the recent dates on the documents from Hubbard indicated he was somewhere in the United States, perhaps still in California. Hubbard's son, DeWolf, said, "I think he's dead and has been for some time."

DeWolf cited his father's failure to con-

Leaves Legal Morass

judge in the case had struck them from the record as "scandalous and irrelevant." Litt said he is representing Hubbard's third wife, Mary Sue, now in federal prison after being convicted of obstruction of justice, in her effort to have DeWolf's petition rejected.

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So where is Hubbard? Doulder said the recent dates on the documents from Hubbard indicated he was somewhere in the United States, perhaps still in California. Hubbard's son, DeWolf, said, "I think he's dead and has been for some time."

DeWolf cited his father's failure to contest personally a $12 million suit filed in Boston federal court filed by author Paulette Cooper, who said she was mercilessly harassed after writing a book critical of Scientology. The judge recently issued a default order against Hubbard.

"You're talking about something that is very near and dear to my father's heart, which was money," DeWolf said.

Boston attorney Michael Flynn, representing author Cooper and other church adversaries, said, "I think he [Hubbard] is alive and in hiding."

Hubbard founded Scientology in 1954, based on a form of psychotherapy he had invented called "Dianetics." The core of the religion is an "audit" in which individuals confess painful or embarrassing moments from their past while "on the cans," a reference to a lie detector device which operates while the subject holds two tin cans. A counselor uses the measurements of emotional distress to help the individual overcome negative feelings which have made him unhappy and unproductive, according to church members.

Fees for audits can run as high as $300 an hour. The church's books, films and other counseling systems have raised millions of dollars, which now interests both the IRS and many people who say they have been injured by church-organized harassment campaigns.

Hubbard's biographer, Vaughn said a new group of church leaders h moved those responsible for the bug and other mistakes.

The Lenskes, although not church members, said they have come to admire the Scientologists thay have met. Last year, they said, the church experienced significant growth in membership despite 30 or 40 defections.

One recent defector, former executive director Bill Franks, said he still admires Hubbard and feels the audits have helped many people. DeWolf said he is suspicious of the use of the audits.

The most recent Hubbard letter, if authentic, indicates that the church's founder is oblivious to much of the controversy. He says he has not been an officer of the church for "nearly 17 years." He mentions his new novel, "Battlefield Earth," his new "Space Jazz" album and a nearly completed 10-volume novel called "Mission Earth."

"I am and always have been a writer and, as a writer to do one's job one can't be involved in the constant noise and hurley burly of distracting things," the letter said. "So to complete my contracts it was vital I sat down under the big trees and let the rest of the world go by."

X

11/2/78

TO: DIRECTOR, FBI (47-56689)
(ATTENTION: SA [redacted], EXHIBIT SECTION)

b6
b7C

FROM: SAC, WFO (47-10713) (P)

MARY SUE HUBBARD;
[redacted] - FUGITIVE;
[redacted] - FUGITIVE;
ET AL
SITOL
(OO:WFO)

On 10/31/78, Washington Field Office (WFO) agents delivered two diagrams of two separate locations searched in Los Angeles, California, on 7/8/77, to Exhibit Section, FBI Headquarters. WFO requests exhibits made in 40 inch by 60 inch size of these two documents for use in trial in this matter after the first of next year.

Exhibit Section is requested to advise Special Agent (SA) [redacted], on extension 7704, or SA [redacted] on extension 7702, when exhibits are completed.

3 - Bureau
1 - WFO

RST:mer
(4)

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1 3 O A P

~~CONFIDENTIAL~~

1-23-85 ~~UNCLAS E F T O~~ ROUTINE

$SER 231950Z JAN 85

C.N. 265,818

~~Classified by SPLE BJF/142~~
~~Declassify on: OADR~~
10-23-87

FM DIRECTOR FBI {47-56689} {62-116151}

TO LEGAL ATTACHE BONN {163E-5773} ROUTINE

BT

SITOL

~~UNCLAS E F T O~~

CHURCH OF SCIENTOLOGY; FPC-BUREAU FILES AND IDENTIFICATION DIVISION-INFORMATION REQUESTS {MISC}; OO: FBIHQ.

REURTEL 12-17-84.

THERE HAVE BEEN NUMEROUS INQUIRIES FROM CITIZENS TO THE BUREAU RE THE CHURCH OF SCIENTOLOGY {COS} DATING FROM THE 1960'S.

IN MAY 1976, TWO MEMBERS OF COS IMPERSONATED IRS AGENTS AND GAINED ACCESS TO THE USA'S OFFICE IN WASH., D.C. THEY WERE DISCOVERED IN THE ACT OF REPRODUCING GOV. DOCUMENTS. THIS INCIDENT PRECIPITATED A MASSIVE INVESTIGATION BY THE FBI AGAINST VARIOUS OFFICIALS OF THE COS {SITOL} FOR VIOLATIONS RANGING FROM THEFT OF GOV. PROPERTY TO AIDING AND ABETTING.

DURING OUR INVESTIGATION, WE SEARCHED TWO COS OFFICES {CAL.

47-56689

62-116151-2321

ORIGINAL FILED IN

PJL:TMK 1-23-85 5224 4892

NOT RECORDED

1 - [redacted]

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1 - [redacted]

1 - [redacted] RM 7338

~~ALL INFORMATION CONTAINED HEREIN IS ... OTHERWISE~~

136 JAN 27 1985

FEB 7 1985

SEE NOTE PAGE 4.

FEDERAL BUREAU OF INVESTIGATION
COMMUNICATIONS
0959Z
JAN 24 1985

FEB 07 1986

PAGE TWO DE HQ 0207 UNCLAS E F T O

& WASH., D.C.) IN JULY, 1977, AND CONFISCATED OVER 20,000 DOCUMENTS.

IN OCT., 1979, NINE OFFICIALS OF THE COS WERE CONVICTED FOR DIRECTING A CONSPIRACY TO STEAL GOV. DOCUMENTS ABOUT THE COS.

IN DEC., 1980, TWO MORE OFFICIALS WERE CONVICTED. THE INDIVIDUALS CONVICTED WERE MARY SUE HUBBARD; [redacted]

b6
b7C

AS A RESULT OF OUR INVESTIGATION, L. RON HUBBARD, FOUNDER OF COS, REQUESTED ALL THE INFO FROM OUR FILES ON COS AND HIMSELF. THE COS THEN INSTITUTED AN APPEAL ACTION AGAINST THE FBI FOR ALL THE INFO WITHHELD.

THERE ARE SEVERAL CIVIL ACTIONS BY THE COS CURRENTLY IN PROGRESS. THE DOJ AND FBI ARE DEFENDANTS IN AT LEAST TWO OF THOSE CIVIL ACTIONS. BOTH ACTIONS INVOLVING THE DOJ AND FBI ARE CASES SEEKING EQUITABLE RELIEF IN THE FORM OF INJUNCTIONS PROHIBITING THE FBI AND DOJ FROM HARASSING AND INTERFERING WITH THE CHURCH'S EXERCISE OF THEIR FIRST AMENDMENT

PAGE THREE DE HQ 0207 UNCLAS E F T O ~~CONFIDENTIAL~~

RIGHTS.

THE TAMPA DIVISION OF THE FBI RECENTLY CONCLUDED AN INVESTIGATION OPENED IN JAN., 1984, INTO CHARGES THAT THE COS HAD SET UP AN ELABORATE SCHEME TO UTILIZE DRUGS AND PROSTITUTES TO COMPROMISE A FEDERAL JUDGE PRESIDING OVER CIVIL LITIGATION INVOLVING THE COS.

INVESTIGATION FAILED TO SUBSTANTIATE THE ALLEGATIONS AND THE U.S. ATTORNEY, TAMPA, HAS DECLINED PROSECUTION.

FOR ADDITIONAL BACKGROUND ON THE COS TWO MEMORANDA WILL BE FORWARDED FOR YOUR REVIEW.

(U) [redacted] b7D

NO RECORD IN BUFILES RE THE LAW FIRM PETERSON AND TRABISCH, SAN FRANCISCO, CAL.

NO CHECKS WERE CONDUCTED IN IDENT DIV.

BT

DO NOT TYPE PAST THIS LINE

DO NOT TYPE MESSAGE [illegible]

[redacted]

FBI/DOJ

[redacted]

TELETYPE TO LEGAL ATTACHE BONN (163E-5773) ROUTINE

NOTE: THIS ANSWER WAS COORDINATED WITH SA [redacted] LEGAL COUNSEL DIV. SA [redacted] FURNISHED INFO ON CLOSED TAMPA CASE, BUFILE 9-68058 AND INFO RE [redacted] INVESTIGATION.

(U) [redacted]

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b7C
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[redacted]